

**THIS IS GENERAL INFORMATION ONLY  
FOR LEGAL ADVICE PLEASE CONTACT AN ATTORNEY**

**PROBATE GUIDELINES WITH WILL  
IF DECEASED AFTER 1-1-98**

- 1. DEATH CERTIFICATE**
- 2. ORIGINAL WILL** –must have original will, properly signed with affidavit of witnesses  
Some wills excuse the Executor/Executrix from bond. If the will does not excuse the Executor from bond, a bond can be obtained through an Insurance Company. Bond is made for the amount of liquid assets (does not include real property).
- 3. PETITION TO PROBATE**
  - (a) Decedent's name, address, date of death, age at death
  - (b) Decedent's heirs, address, age, relationship to decedent
  - (c) Decedent's property (value for Inheritance Tax purposes)
  - (d) Petitioner's name, address, relationship to decedent
- 4. ORDER TO PROBATE** – An order is signed by the Probate Judge granting the request of the petitioner.
- 5. LETTERS OF TESTAMENTARY** – Letters Testamentary are issued by the Clerk. These Letters give the Executor/Executrix the authority to act on behalf of the deceased. The Letters are issued after the Probate Judge has admitted the Will into probate or signed the appropriate order.
- 6. NOTICE TO CREDITORS**
  - (a) The Clerk will run the Notice to Creditors in the local paper. This will run in the Mountain Press for a fee of \$31.61. This amount is included in the original probate fee. The Clerk collects this at the time of probate.
  - (b) It is the responsibility of the Executor/Executrix to contact all creditors and send them a copy of the notice.
  - (c) If a claim is filed against an estate, the Clerk will notify the Executor/Executrix that a claim has been filed. After claim has been paid, a receipt must be obtained from the creditor for proof of payment and filed with the Clerk. It is the responsibility of the Executor/Executrix to make sure the receipt is filed.
  - (d) If the estate is valued at less than \$100,000.00, the estate will remain open for four months. This allows four months for a claim to be filed. Filing date ends four months from the date of the first publication.
- 7. INHERITANCE TAX**
  - (a) If the estate is valued at less than \$100,000.00, the Personal Representative's Sworn Statement for Waiver of Filing Tax Return may be signed, which is included in the packet of forms
  - (b) If the estate is valued at \$100,000.00 up to \$1,000,000.00, the Short Form Inheritance Tax Return must be filed with the state. The Clerk will furnish this form. Again, you may need to contact an attorney regarding this.
  - (c) If estate is over \$100,000.00, the estate has to remain open for at least four months.
  - (d) Inheritance Tax Return form needs to be filed within (90) days after estate is open.
- 8. CLOSING ESTATE**
  - (a) Petition to close
  - (b) Order to Close
  - (c) Final Accounting – if required
  - (d) Inheritance Tax Receipt-if required
  - (e) \$10.00 Closing Fee
  - (f) Acknowledgement Forms from Heirs
  - (g) Tenn Care Release